JD(SF)-64-05
Los Angeles, CA

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
ATLANTA BRANCH OFFICE
DIVISION OF JUDGES

SOUTHERN CALIFORNIA GAS COMPANY

and Case 21-CA-36039

UTILITY WORKERS UNION OF AMERICA
LOCAL 132, AFL-CIO

Steve L. Hernandez, Atty., Counsel for the General Counsel,
Los Angeles, California.
Larry Stein, Atty., Sempra Energy, Counsel for Respondent,
Los Angeles, California.
Adam Stern and Analisa Swan, Attys., Levy, Stern & Ford, Counsel for the
Charging Party, Los Angeles, California.

DECISION

I. Statement of the Case

Lana H. Parke, Administrative Law Judge. This matter was tried in Los Angeles, California on July 11, 2005 upon Complaint and Notice of Hearing (the Complaint) issued April 29, 2005 by the Regional Director of Region 21 of the National Labor Relations Board (the Board) based upon a charge and amended charge filed by Utility Workers Union of America, Local 132, AFL-CIO (the Union or Charging Party).

The Complaint alleges Southern California Gas Company (Respondent) violated Section 8(a)(1) and (3) of the National Labor Relations Act (the Act), on July 17, 2003[1] by discriminatorily disciplining employee, Helen Olague-Pimentel (Ms. Olague-Pimentel) for engaging in protected union activities and violated Section 8(a)(1) by discriminatorily prohibiting Ms. Olague-Pimentel from using company resources for union business.

II. Jurisdiction

Respondent, a California corporation, with a principal place of business in Los Angeles, California, has, at all relevant times, been a public utility engaged in the generation and distribution of natural gas. In the conduct of its business, Respondent annually derives gross revenue in excess of $250,000 and purchases and receives at its Los Angeles, California facility goods valued in excess of $50,000 directly from suppliers located outside the State of California.[2] Respondent admits, and I find, it has at all relevant times been an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act, and the Union

[1] All dates herein are in 2003 unless otherwise stated.

[2] Unless otherwise explained, findings of fact herein are based on party admissions, stipulations, and uncontroverted testimony.

has been a labor organization within the meaning of Section 2(5) of the Act.

III. Findings of Fact

Ms. Olague-Pimentel worked for Respondent as a district operations clerk for approximately five years prior to the hearing, doing payroll, work measurement and scheduling, and other computer tasks. During all relevant times, Ms. Olague-Pimentel also served as Region Officer for the Orange Coast Region of the Union. In that position, Ms. Olague-Pimentel oversaw the Union's shop committee, safety committees, shop stewards, disciplinary interviews, and second step grievances. In connection with her union duties, Ms. Olague-Pimentel posted notices of union meetings on union bulletin boards maintained at Respondent's facilities. In approximately April, without prior company approval, Ms. Olague-Pimentel posted a notice on union bulletin boards at seven work locations. The notice announced a union workshop for part-time employees to be held on company property after work hours. Respondent made no objection to the April posting. In about July, Respondent ceased to permit the Union to hold meetings on company property.

Sometime prior to July 8, the Union decided to host another part-time employee workshop, the purpose of which was to educate Respondent's part-time workers on how to bid full-time positions and to answer any questions regarding the bidding process. On July 8, utilizing Respondent's computer system, Ms. Olague-Pimentel sent an e-mail with attachment to 73 of Respondent's district operation clerks. The email read: "<< File: directions 2-july meeting.doc>> Due to the shortness of time I need your help. Please print two copies give one to the meter reader tech. and post one on the union board."[3] Prior to sending the email, Ms. Olague-Pimentel did not seek company approval of the proposed posting.[4] The attachment (herein called the July workshop email) bearing the Union's seal at the top, read, in pertinent part:

WANTED!

APPLICANTS FOR GAS COMPANY FULL TIME JOBS
UTILITY WORKERS UNION OF AMERICA
LOCAL 132
PART-TIMER WORKSHOP

SATURDAY, JULY 12TH, 2003
10 AM TO 1 PM
2020 W. CHAPMAN AVENUE
ORANGE, CA 92868
"LOOK FOR GRAY BUILDING"

When Respondent's Labor Relations director, Sue Bosworth (Ms. Bosworth), and advisor, Cheryl Livengood, were notified of the July workshop email, they concluded the email, along with the attendant printing, constituted a misuse of company resources. They also concluded the proposed posting should have received prior management approval because it

[3] The notices were to be posted on the same number of union bulletin boards as the previous April workshop notice.

[4] Respondent's Labor Relations director, Sue Bosworth, testified that if approval had been sought, she would have approved the posting. In the two years she has served as Labor Relations Director, the Union has never sought approval for its bulletin board postings.

did not qualify as a union meeting as described in Section 2.2(I) of the labor agreement between Respondent and the Union, which reads, in pertinent part:

> **Bulletin Boards:** In plants or units covered by this Agreement the Company will erect and maintain bulletin boards in suitable places mutually agreed upon, to be used solely by the Union for the posting of notices of the following type only, except that additional notices may be posted upon approval by local management or by the Director, Labor Relations:
>
> (1) Notices of Union recreational and social affairs.
> (2) Notices of Union elections…
> (3) Notices of Union meetings.
> (4) Minutes of Shop Committee meetings.

On July 17, Ms. Olague-Pimentel's supervisor, Rex Cullen (Mr. Cullen) called her into his office. Present was Ray Bravo (Mr. Bravo) District Operations Manager and union shop steward, John Lippert. At Mr. Cullen's inquiry, Ms. Olague-Pimentel acknowledged she had sent the July workshop email to the named addressees while she was on her lunch break. Mr. Cullen and Mr. Bravo told her she should not have sent the email as it had been sent on company equipment and constituted "giving work direction." Ms. Olague-Pimentel pointed out that the email was a posting for a union meeting, which she was entitled to place on the union bulletin boards and, in the past, she had sent union postings to supervisors and had given "meetings on company property at the company hours for a whole year."

The two managers reiterated that sending the email was inappropriate. They showed her a copy of a company email sent to all employees on June 12, entitled Internet/Intranet Acceptable Use, which read in pertinent part:

> Sempra Energy provides Internet and Intranet access for its employees for purposes of facilitating company business. While the availability of Sempra Energy's computing to access the Internet are [sic] a powerful tool for us to conduct business, for some, it also provides the temptation for abuse…
>
> Occasional and incidental personal use of the I-Net is permitted if
>
> - It does not interfere with the employee's ability to perform their work.
> - It does not interfere with the company [ability] to perform its mission, or
> - Is not used for threatening, racially and/or sexually offensive, immoral, indecent, or otherwise objectionable activities.
>
> ….
> Any employees found to be abusing Sempra Energy computing resources will be subject to discipline up to and including termination. With this in mind, employees should be mindful of the amount of time spent using the Internet and Intranet for personal use.

Mr. Cullen and Mr. Bravo also issued Ms. Olague-Pimentel an Interim Personnel Report[5] to be

[5] Respondent describes the Interim Personnel Report as a counseling memorialization, a copy of which is kept in an employee's personnel file for a year with the original being sent to Respondent's Labor Relations department. Respondent considers past Interim Personnel Reports in determining what discipline to impose.

added to her personnel record, which read, in pertinent part:

> This interim is to document that on July 8, 2003 Helen Olague-Pimentel sent an unauthorized email with an attached Union document to 73 other Company employees directing them to "print two copies give one to the meter reader tech and post one on the union board" via the Company's email system using a Company owned computer.
> During an investigatory interview held on July 17, 2003, Helen was informed that her actions violated well-known policies restricting the use of Company resources for unauthorized Union business and directing Company employees to engage in union activity while on the job. Helen also violated section 2.2, paragraph I, of the Company/Union agreement by not seeking management's approval to post documents on Union bulletin boards as described under section 2.2, paragraph I, of the Company/Union agreement. She is also to refrain from using Company resources to distribute unauthorized Union materials and she is not to direct other Company employees to conduct Union business while on the job. Failure to comply with these well-known Company policies in the future may result in further remedial steps, including suspension without pay.

Later, Ms. Bosworth rewrote Ms. Olague-Pimentel's Interim Personnel Report to read:

> The purpose of this interim is to document a counseling session with Helen regarding the use of the company email system. Helen used the company computer and email system by sending an email asking the recipients to copy and post some material from the email. The material was not company business. Helen was informed that any future instances surrounding the misuse of the company computer, printers or email system is not appropriate.

Respondent has an unwritten policy that allows for use of company equipment for "appropriate" non-business purposes. The company has not defined what equipment use is "appropriate." Ms. Olague-Pimentel had, on numerous occasions, formerly used Respondent's e-mail system to communicate union-related matters to employees, including announcement of union meetings. Respondent's employees customarily utilize Respondent's email system to make such nonwork announcements as funeral plans, baby showers, golf tournaments, and retirement parties, and it is not unusual for employees to print out the announcements. For example, on November 20, email notification from one employee of the retirement of another was sent to "All EDS Pacific (BASES); All EDS Pacific (HDQ)," and 37 named employees (including supervisors) with instructions to "forward to your work groups and/or print a copy at your districts."[6]

On July 29, the Union filed a grievance protesting Ms. Olague-Pimentel's Interim Personnel Report, which Respondent denied through Step Two of the contractual grievance procedure. Thereafter the issue, inter alia, was submitted to arbitration. On November 7 and December 19, respectively, the Union filed a charge and amended charge with the Board alleging that issuance of the Interim Personnel Report to Ms. Olague-Pimentel violated the Act.

[6] Ms. Bosworth believed that although an e-mail announcement of a retirement function might be sent to "a number of people," she considered it an appropriate use of e-mail as it raised employee morale.

On February 7, 2005, arbitrator Fredric R. Horowitz issued his Opinion and Award finding, inter alia, that Ms. Olague-Pimentel's Interim Personnel Report was not "adverse company action" but merely a counseling that confirmed her awareness of Respondent's email policy and informed her of consequences for any repetition of email misuse and which is not arbitral under the parties' agreement.

Respondent's presented evidence of the following Interim Personnel Reports for employees regarding use of company resources:

March 3, 1993: misuse of company vehicle.
August 30, 1995: recidivist misuse of computers to send "FYI" and trivia messages.
July 15, 1998: misuse of the Internet (otherwise unexplicated).
September 26, 2000: allowing unauthorized persons into the office and misuse of telephones and equipment (otherwise unexplicated).
October 25, 2000: use of company mail and telephones in connection with a domestic conflict.
September 10, 2001: various infractions including excessive personal telephone use during work.
November 21, 2001: Recidivist personal use of the internet.
August 2, 2002: misuse of company time & equipment (otherwise unexplicated).
March 24, 2003: misuse of company telephones and equipment (otherwise unexplicated).
June 5, 2003: misuse of company vehicle and time.
July 31, 2003: customer complaint of an employee on a personal telephone call for 52 minutes.[7]
July 15, 2004: personal use of the internet.
October 12, 2004: personal use of the Internet.
December 8, 2004: complaining by email about a departmental policy on company vehicle keys.

Admittedly, none of the Interim Personnel Reports in evidence concerned employee use of company email to send nonwork messages when the employee was not on work time, and Ms. Bosworth was unable to name any employee to whom Respondent had issued such a report. Prior to 2001, Respondent had advised employees in workgroup meetings that it was inappropriate to sell items using company property but issued no Interim Personnel Reports for such conduct. In about 2001 after finding copies of a football pool in a company copier, Mr. Bravo reminded employees at a workgroup meeting that they were not to use copiers for inappropriate activity; Respondent considered the football pool to be illegal under California law.

Paragraph 7 of the Complaint alleges that inclusion of language in Ms. Olague-Pimentel's Interim Personnel Report prohibiting her from using company resources for union business and from posting union notices without prior management approval violated Section 8(a)(1) of the Act. In its May 6, 2005 answer to the Complaint, Respondent included the following admission to paragraph 7:

[7] The Interim Personnel Report inconsistently notes at one point that the call lasted "25" minutes. As "52 minutes" is used twice to describe the call, I accept that figure.

> The Company admits that the supervisors filling out the Interim Personnel Report probably misinterpreted a provision of the contract and that the items which Ms. Olague-Pimentel sought to have placed on the Union bulletin board did not require advance approval, inasmuch as they are enumerated items in paragraph 2.2(1) of the Collective Bargaining Agreement. The Company again admits that the Interim Personnel Report may have been inartfully drafted but that it correctly states that an employees [sic] is prohibited from using company resources to print and distribute non-company related materials.

At the hearing, Respondent amended its answer to deny the allegations of paragraph 7 of the Complaint.

IV. Discussion

1. The Interim Personnel Report issued to Ms. Olague-Pimentel on July 17, 2003

The nature and effect of the Interim Personnel Report issued to Ms. Olague-Pimentel on July 17, and Respondent's motivation in issuing it, are disputed issues herein. Both issues are comprehended in the Board's analytical guidelines in *Wright Line,*[8] which establishes the evidentiary elements of the General Counsel's burden of showing discriminatory motive. "The General Counsel must establish four elements by a preponderance of the evidence. First, the General Counsel must show the existence of activity protected by the Act. Second, the General Counsel must prove that the respondent was aware that the employee had engaged in such activity. Third, the General Counsel must show that the alleged discriminatee suffered an adverse employment action. Fourth, the General Counsel must establish a motivational link, or nexus, between the employee's protected activity and the adverse employment action. [citation omitted]." *American Gardens Management Company,* 338 NLRB 644, 645 (2002); see also *National Steel Supply, Inc.*, 344 NLRB No. 121, fn 7 (2005) (the necessity for a causal nexus between union animus and adverse employment action is inferred under *Wright Line.)* If the General Counsel establishes the *Wright Line* elements, the burden of proof then shifts to Respondent to persuade by a preponderance of the evidence that it would have made the same decision, even in the absence of protected activity.[9] *Avondale Industries, Inc.,* 329 NLRB 1064 (1999); *T&J Trucking Co.,* 316 NLRB 771 (1995).

No party disputes that Ms. Olague-Pimentel's July 8 email distribution of the July workshop announcement constituted protected union activity within the meaning of the Act or that Respondent was aware of the protected activity. Respondent contends, however, that the Interim Personnel Report issued to Ms. Olague-Pimentel was not an adverse employment action but merely a memorialization of nondiscriminatory counseling given to Ms. Olague-Pimentel as a caution not to misuse company resources, a position with which Arbitrator Horowitz agreed in finding the issue unarbitral under the parties' agreement. For the Board to defer to an arbitration award, the arbitrator must have considered the unfair labor practice issue which is before the Board. See Board analysis in *Smurfit-Stone Container Corporation,* 344 NLRB No. 82 (2005). As Arbitrator Horowitz declined to address the issue herein, deferral to his decision is not warranted.

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[8] 251 NLRB 1083 (1980), enfd. 662 F. 2d 899 (1st Cir. 1981), cert. Denied 455 U.S. 989 (1982).

[9] A "preponderance" of evidence means that the proffered evidence must be sufficient to permit the conclusion that the proposed finding is more probable than not. McCormick Evidence, at 676-677 (1st ed. 1954).

I note that Respondent maintains Interim Personnel Reports in individual employee personnel files and may use the reports as cumulative support for such disciplinary actions as written warning notices, suspension, and discharge. Inasmuch as Interim Personnel Reports may serve as integral steps in disciplinary progression, they constitute adverse employment actions. Consequently, the General Counsel has established the first three elements required by *Wright Line.*

Respondent argues that the General Counsel has not established a motivational link, or nexus, between Ms. Olague-Pimentel's protected activity and the adverse employment action taken against her, arguing that "[t]he record does not contain a single anti-union statement made by [any manager]. It is true that the evidence herein does not manifestly satisfy *Wright Line's* fourth element, as there is no direct evidence of Respondent animosity toward Ms. Olague-Pimentel's union activities. However, direct evidence of unlawful motivation is seldom available, and unlawful motivation may be established by circumstantial evidence, the inferences drawn therefrom, and the record as a whole. *Tubular Corporation of America,* 337 NLRB 99 (2001); *Abbey Transportation Service*, 284 NLRB 689, 701 (1987); *Shattuck Denn Mining Corp., 362* F.2d 466, 470 (9th Cir. 1966). Indications of discriminatory motive may include disparate treatment,[10] and/or departure from past practice.[11] The circumstances in which Respondent issued the July 8 Interim Personnel Report to Ms. Olague-Pimentel reveal both indicators.

Respondent permits employees to use company equipment, including its email system and copiers, for "appropriate" non-business purposes. Respondent has never explicated which non-business email communications or equipment use is appropriate. However, inferences of appropriateness can be drawn from examining employee equipment use for which Respondent issued, or refrained from issuing, Interim Personnel Reports. Respondent submitted evidence that during the past 12 years, it issued Interim Personnel Reports to employees for misusing company vehicles, email transmission of "FYI" and trivia messages, personal internet use, use of mail and telephones in connection with a domestic dispute, a 52-minute personal telephone call during work time as reported by a customer, and an email transmission to employees complaining about the company.[12] Additionally, Respondent has orally cautioned employees that it is inappropriate to sell products using company property or to use company copiers to facilitate a football pool. Respondent conceded that none of the Interim Personnel Reports in evidence concerned employee use of company email to send nonwork messages when the employee was not on work time.

Respondent has tacitly approved of such nonwork email announcements as funeral plans, baby showers, golf tournaments, and retirement parties, and it is not unusual for employees to print out the announcements. Such email messages have been directed to large numbers of employees and supervisors; one such message instructed at least 37 named employees to "forward [the message] to your work groups and/or print a copy at your districts." As Respondent notes in its post-hearing brief, Respondent's intranet use policy is "permissive

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[10] "The Board has held that disparate treatment, by itself, can support a prima facie case of discrimination." *Zurn/N.E.P.C.O.,* 345 NLRB No. 1, fn. 5, (2005) citing *New Otani Hotel & Garden,* 325 NLRB 928 fn. 2 (1998).

[11] *Sunbelt Enterprises,* 285 NLRB 1153 (1987).

[12] The Interim Personnel Reports submitted by Respondent include several that note misuse of equipment without further detail. In the absence of explication, I will not infer they reflect situations analogous to the Interim Personnel Report issued to Ms. Olague-Pimentel.

and depends on the good common sense of its employees." E-mail announcement of a retirement function sent to "a number of people," would apparently be an exercise of employee good common sense, as, according to Ms. Bosworth, it could be expected to raise employee morale. Apparently Respondent considered Ms. Olague-Pimentel's July 8 email announcement of a union workshop neither reflective of good common sense nor capable of raising employee morale. However, a comparison of Ms. Olague-Pimentel's email to an announcement of a retirement function shows each to be addressed to an identifiable group of Respondent's employees, to relate to a matter presumably of work-related interest to that group, to arise out of workplace concerns (job bidding on one hand and honoring employee longevity on the other), and to heighten employee awareness of workplace matters (job bidding procedures on one hand and appreciation of employee service on the other). In essentials, the messages differed only in the fact that Ms. Olague-Pimentel's related to a union-sponsored rather than employee-sponsored activity. It may, therefore, reasonably be inferred that Respondent's objection to Ms. Olague-Pimentel email communication was based on its union-related content.

It is clear that by sending an email message, along with a request to copy an attached notice, to numerous employees, Ms. Olague-Pimentel used, or encouraged use of, Respondent's email system and copying equipment for non-business purposes. It is equally clear that Respondent viewed Ms. Olague-Pimentel's email transmission in a different light from other nonbusiness employee email communications. By issuing Ms. Olague-Pimentel an Interim Personnel Report, Respondent treated her disparately and departed from its past practice regarding company email and equipment use. An inference can be reasonably drawn that the inconsistent treatment occurred because the email message was union-related. In these circumstances, the General Counsel has shown a motivational link, or nexus, between animus toward Ms. Olague-Pimentel's protected activity and the adverse employment action taken against her.

The General Counsel having established the elements required by *Wright Line*, the burden of proof shifts to Respondent to show that it would have issued an Interim Personnel Report to Ms. Olague-Pimentel, even if Ms. Olague-Pimentel's July 8 email transmission had not related to union matters.

Respondent argues that regardless of the message's provenance or content, Respondent would have issued an Interim Personnel Report to Ms. Olague-Pimentel for sending it, as it directed 73 district operation clerks to perform non-work tasks (printing and posting the message) during work hours, using company printing resources and supplies to do so. The burden is Respondent's to show that it would have (not just could have) issued the Interim Personnel Report to Ms. Olague-Pimentel regardless of her utilization of company resources for union purposes. See *Yellow Enterprise Systems, Inc.,* 342 NLRB No. 77, sl. op. 1 (2004); *Avondale Industries, Inc.,* 329 NLRB 1064 (1999). Respondent has not met its burden. Respondent has not shown that the employees who received Ms. Olague-Pimentel's message carried out the copying/posting assignment on work hours or that their utilization of company resources was significantly greater than what occurred when employees staged a workplace social function. Hence, the taint of disparate treatment remains. Accordingly, I find that by issuing an Interim Personnel Report to Ms. Olague-Pimentel for transmitting, on July 8, an email notice of a union-sponsored employee workshop, Respondent violated Section 8(a)(3) and (1) of the Act.

2. Respondent's Prohibition against Using Company Resources for Union Business

On July 17, Respondent informed Ms. Olague-Pimentel that she had violated Respondent's labor agreement with the Union by not seeking management's approval to post on the union's bulletin board a notice of an employee workshop. The Interim Personnel Report issued to Ms. Olague-Pimentel at the same time also memorialized Respondent's direction to her to refrain from using company resources to distribute unauthorized union materials. The General Counsel contends that these restrictions interfered with, coerced, and restrained employees in the exercise of their Section 7 rights.

Although silent in its post-hearing brief as to this issue, Respondent argued at the hearing that the labor agreement prohibits unapproved posting of the union-sponsored employee workshop notice on the bulletin boards maintained by Respondent for the Union's use. The relevant provision in pertinent part permits the Union, without prior company approval, to post notices of union recreational and social affairs, notices of union elections, and notices of union meetings. The provision in no way limits the purpose for which a union meeting may be called, and it is clear that it contemplates permissible posting for a panoply of union activities, as even notices of union recreational and social affairs are not subject to pre-posting employer scrutiny. The Union's notice of a workshop designed to educate employees about effective job bidding relates to the Union's responsibilities in representing employees and clearly fits within the category of "union meeting" set forth in the labor agreement.

Not only did the Union's July 8 workshop notice fit the parameters of the labor agreement, but Respondent has permitted the Union to post similar notices in the past. In approximately April 2003, Ms. Olague-Pimentel posted a part-time employee workshop notice on the same number of union bulletin boards as the July 8 notice utilized without company protest. The reason for Respondent's *volte face* on Union bulletin board use is unknown. It may be connected to Respondent's withdrawal, at about the same time, of permission for the Union to hold meetings on company property, or it may be wholly innocuous. It is unnecessary to determine Respondent's rationale as motive is not an essential element of an 8(a)(1) violation. Rather the Board's longstanding test is whether the employer engaged in misconduct, which, it may reasonably be said, tends to interfere with the free exercise of employee rights under the Act. *American Freightways Co.,* 124 NLRB 146 (1959); *Roadway Express,* 250 NLRB 393 (1980), or impede or discourage union involvement. *F.W. Woolworth Co.,* 310 NLRB 1197 (1993). Respondent's caviling at the Union's unapproved workshop posting creates an unreasonable and inconsistent restraint on union activity. Accordingly, I find that by imposing restrictions on Ms. Olague-Pimentel's discretion to post union materials on the union bulletin boards, as alleged in the Complaint, Respondent has violated Section 8(a)(1) of the Act.

CONCLUSIONS OF LAW

1. Respondent is an employer engaged in commerce and in a business affecting commerce within the meaning of Section 2(6) and (7) of the Act.
2. The Union is a labor organization within the meaning of Section 2(5) of the Act.
3. Respondent violated Sections 8(a)(3) and (1) of the Act by issuing an Interim Personnel Report to Ms. Olague-Pimentel for engaging in the protected union activity of transmitting, on July 8, 2003, an email notice of a union-sponsored employee workshop.
4. Respondent violated Section 8(a) (1) of the Act by discriminatorily directing Ms. Olague-Pimentel to refrain from using company resources to distribute unauthorized union materials.

5. Respondent violated Section 8(a) (1) of the Act by imposing unreasonable restrictions on posting union materials on union bulletin boards.
6. The unfair labor practices set forth above affect commerce within the meaning of Section 8(a)(1) and (3) and Section 2(6) and (7) of the Act.

REMEDY

Having found that Respondent has engaged in certain unfair labor practices, I find it must be ordered to cease and desist and to take certain affirmative action designed to effectuate the policies of the Act.

On these findings of fact and conclusions of law and on the entire record, I issue the following recommended[13]

ORDER

Respondent, Southern California Gas Company, its officers, agents, successors, and assigns, shall

1. Cease and desist from
   (a) Issuing Interim Personnel Reports to employees for engaging in protected union activities.
   (b) Discriminatorily directing employees to refrain from using company resources to distribute unauthorized union materials.
   (c) Imposing unreasonable restrictions on posting union materials on union bulletin boards. In any like or related manner interfering with, restraining, or coercing employees in the exercise of their rights guaranteed in Section 7 of the Act.

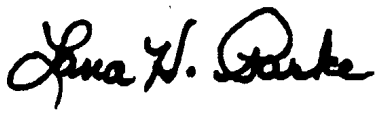
2. Take the following affirmative action necessary to effectuate the policies of the Act:
   (a) Remove from its files any reference to the July 17, 2003 Interim Personnel Report issued to Ms. Olague-Pimentel and within three days thereafter notify her in writing that this has been done and that the Interim Personnel Report will not be used against her in any way.
   (b) Rescind its July 17, 2003 direction to Helen Olague-Pimentel not to use company resources to distribute unauthorized union materials.
   (c) Rescind its July 17, 2003 restriction on posting union materials on union bulletin boards

[13] If no exceptions are filed as provided by Sec. 102.46 of the Board's Rules and Regulations, the findings, conclusions, and recommended Order shall, as provided in Sec. 102.48 of the Rules, be adopted by the Board and all objections to them shall be deemed waived for all purposes.

(d) Within 14 days after service by the Region, post at its office in Los Angeles, California copies of the attached notice marked "Appendix."[14] Copies of the notice, on forms provided by the Regional Director for Region 21 after being signed by Respondent's authorized representative, shall be posted by Respondent immediately upon receipt and maintained for 60 consecutive days in conspicuous places including all places where notices to employees are customarily posted. Reasonable steps shall be taken by Respondent to ensure that the notices are not altered, defaced, or covered by any other material. In the event that, during the pendency of these proceedings, Respondent has gone out of business or closed the operations involved in these proceedings, Respondent shall duplicate and mail, at its own expense, a copy of the notice to all current employees and former employees employed by Respondent at any time since July 17, 2003.

(e) Within 21 days after service by the Region, file with the Regional Director a sworn certification of a responsible official on a form provided by the Region attesting to the steps that Respondent has taken to comply.

Dated, at San Francisco, CA: September 14, 2005



Lana H. Parke
Administrative Law Judge

[14] If this Order is enforced by a Judgment of the United States Court of Appeals, the words in the notice reading "POSTED BY ORDER OF THE NATIONAL LABOR RELATIONS BOARD" shall read "POSTED PURSUANT TO A JUDGMENT OF THE UNITED STATES COURT OF APPEALS ENFORCING AN ORDER OF THE NATIONAL LABOR RELATIONS BOARD."

APPENDIX
NOTICE TO EMPLOYEES
Posted by Order of the
National Labor Relations Board
An Agency of the United States Government

The National Labor Relations Board has found that we violated Federal labor law and has ordered us to post and obey this notice.

FEDERAL LAW GIVES YOU THE RIGHT TO

Form, join, or assist a union
Choose representatives to bargain with us on your behalf
Act together with other employees for your benefit and protection
Choose not to engage in any of these protected activities

WE WILL NOT do anything that interferes with these rights. More particularly,
WE WILL NOT issue Interim Personnel Reports to employees for engaging in union or other protected concerted activities.
WE WILL NOT discriminatorily direct employees not to use company resources to distribute unauthorized union materials.
WE WILL NOT impose unreasonable restrictions on posting union materials on union bulletin boards.

WE WILL remove from our files any reference to the July 17, 2003 Interim Personnel Report issued to Helen Olague-Pimentel and within three days thereafter notify her in writing that this has been done and that the Interim Personnel Report will not be used against her in any way
WE WILL rescind our July 17, 2003 direction to Helen Olague-Pimentel not to use company resources to distribute unauthorized union materials.
WE WILL rescind our July 17, 2003 imposition of unreasonable restrictions on posting union materials on union bulletin boards.

Southern California Gas Company
(Employer)

Dated _____ By _____
(Representative) (Title)

The National Labor Relations Board is an independent Federal agency created in 1935 to enforce the National Labor Relations Act. It conducts secret-ballot elections to determine whether employees want union representation and it investigates and remedies unfair labor practices by employers and unions. To find out more about your rights under the Act and how to file a charge or election petition, you may speak confidentially to any agent with the Board's Regional Office set forth below. You may also obtain information from the Board's website: www.nlrb.gov.

888 South Figueroa Street, 9th Floor

Los Angeles, California 90017-5449

Hours: 8:30 a.m. to 5 p.m.

213-894-5200.

THIS IS AN OFFICIAL NOTICE AND MUST NOT BE DEFACED BY ANYONE
THIS NOTICE MUST REMAIN POSTED FOR 60 CONSECUTIVE DAYS FROM THE DATE OF POSTING AND MUST NOT BE ALTERED, DEFACED, OR COVERED BY ANY OTHER MATERIAL. ANY QUESTIONS CONCERNING THIS NOTICE OR COMPLIANCE WITH ITS PROVISIONS MAY BE DIRECTED TO THE ABOVE REGIONAL OFFICE'S COMPLIANCE OFFICER, 213-894-5229.